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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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IN RE:

56 MISCELLANEOUS FIREARMS & PARTS.

Case No.

UNITED STATES' EX PARTE MOTION  
TO EXTEND TIME TO FILE CIVIL  
FORFEITURE COMPLAINT AND/OR  
OBTAIN INDICTMENT ALLEGING  
FORFEITURE

Case: 2:22-mc-00718

Assigned To : Nuffer, David

Judge

Assign. Date : 11/15/2022

Description: In Re 56 Miscellaneous  
Firearms and Parts

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COMES NOW Plaintiff, the United States of America, by and through the United States Attorney for the District of Utah, and moves the Court, pursuant to 18 U.S.C. § 983(a)(1)(C), to grant it an extension of time until January 14, 2023, to file its Complaint for Forfeiture and/or obtain an indictment against 56 miscellaneous firearms & parts (see attached asset list for descriptions).

On March 26, 2022, the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") seized the assets in the attached list in accordance with 26 U.S.C. § 5861(a), knowingly engaged in the business as a manufacturer of NFA Firearms without having registered as required by 26 U.S.C. § 5802 and 26 U.S.C. § 5861(f), knowingly made a NFA firearm and the making violated the National Firearms Act.

In 2000, Congress enacted the Civil Asset Forfeiture Reform Act of 2000 (“CAFRA”). At least one of the motives driving the decision to enact CAFRA was a desire to ensure that owners of seized property received adequate, timely notice of the government’s intent to forfeit property. See generally 18 U.S.C. § 983(a)(requiring agencies to send notice of their intent to forfeit seized properties to potential claimants within 60 or 90 days of seizure, depending on the circumstances). Recognizing that situations were likely to arise where ongoing investigations could be compromised by supplying timely notice, Congress likewise enacted statutory provisions allowing the Government to petition the courts for relief from the deadlines under appropriate circumstances. See 18 U.S.C. § 983(a)(1)(B)-(D) and (a)(3)(A).

The ATF began administrative forfeiture procedures in accordance with 18 U.S.C. § 983(a). ATF sent direct notice to all potential owners or individuals known to them to have an interest in the seized assets and published notices of forfeiture. An administrative claim was filed by Kevin Maxwell on August 16, 2022 as to the assets in the attached list.

The 90-day deadline pursuant to CAFRA expires on November 15, 2022. The ATF has jurisdiction to pursue administrative forfeitures under the National Firearms Act (NFA). However, because the NFA is part of the Internal Revenue Code, Title 26, United States Code, forfeiture cases based on Title 26 offenses are exempted from CAFRA deadlines by 18 U.S.C. § 983(i) (generally known as the “customs carve-out”). See United States v. TRW Model M14 7.62 Cal. Rifle, 414 F.3d 416 (6th Cir. 2006). These forfeitures are governed by the customs laws— 19 U.S.C. §§ 1602–1619. An Order to Extend the time to file a civil complaint and/or obtain an indictment against 56 miscellaneous firearms & parts isn’t necessarily required at this

time, but out of an abundance of caution the United States is requesting an official extension of time.

For the foregoing reasons, the United States respectfully requests that the Court extend the period in which the United States is required to file a complaint for forfeiture against the 56 miscellaneous firearms and parts and/or to obtain an indictment alleging the miscellaneous firearms and parts is subject to forfeiture until January 14, 2023.

Dated this 15<sup>th</sup> day of November, 2022.

TRINA A. HIGGINS  
United States Attorney

/s/ Adam S. Elggren  
ADAM S. ELGGREN  
Assistant U.S. Attorney